

Senate Bill 207

By: Senator Wiles of the 37th

**AS PASSED**

**AN ACT**

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to admit the general public to certain proceedings in juvenile court with certain exceptions; to define certain terms; to authorize a juvenile court to close a hearing under certain circumstances; to require a written order to close certain hearings; to provide that the judge may order the media not to publicize the identifying information of any child involved in open juvenile court proceedings; to provide that certain records may be sealed; to provide for sharing of confidential information; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by revising Code Section 15-11-78, relating to exclusion of the public from hearing and exceptions, as follows:

"15-11-78.

(a) As used in this Code section, the term 'deprivation proceeding' means a court proceeding stemming from a petition alleging that a child is a deprived child.

(b) The general public shall be admitted to:

(1) An adjudicatory hearing involving an allegation of a designated felony pursuant to Code Section 15-11-63;

(2) An adjudicatory hearing involving an allegation of delinquency brought in the interest of any child who has previously been adjudicated delinquent; provided, however, the court shall close any delinquency hearing on an allegation of sexual assault or any delinquency hearing at which any party expects to introduce substantial evidence related to matters of deprivation;

(3) Any child support hearing;

- (4) Any hearing in a legitimation action filed pursuant to Code Section 19-7-22;
  - (5) At the court's discretion, any dispositional hearing involving any proceeding under this article; or
  - (6) Any hearing in a deprivation proceeding, except as otherwise provided in subsection (c) of this Code section.
- (c) The court may close the hearing in a deprivation proceeding only upon making a finding upon the record and issuing a signed order as to the reason or reasons for closing all or part of a hearing in such proceeding and stating that:
- (A) The proceeding involves an allegation of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16; or
  - (B) It is in the best interest of the child. In making such a determination, the court shall consider such factors as:
    - (i) The age of the child;
    - (ii) The nature of the allegations;
    - (iii) The effect that an open court proceeding will have on the court's ability to reunite and rehabilitate the family unit; and
    - (iv) Whether the closure is necessary to protect the privacy of a child, of a foster parent or other caretaker of a child, or of a victim of domestic violence.
- (d) The court may close a hearing or exclude a person from a hearing in any proceeding on its own motion, by motion of a party to the proceeding, or by motion of a child who is the subject of the proceeding or the child's attorney or guardian ad litem.
- (e) Only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and any other persons as the court finds have a proper interest in the proceeding or in the work of the court may be admitted by the court to hearings from which the public is excluded; provided, however, that when the conduct alleged in the deprivation proceeding could give rise to a criminal or delinquent prosecution, attorneys for the prosecution and the defense shall be admitted.
- (f) The court may refuse to admit a person to a hearing in any proceeding upon making a finding upon the record and issuing a signed order that the person's presence at the hearing would:
- (1) Be detrimental to the best interest of a child who is a party to the proceeding;
  - (2) Impair the fact-finding process; or
  - (3) Be otherwise contrary to the interest of justice.

- (g) The court may temporarily exclude any child from a termination of parental rights hearing except while allegations of his or her delinquency or unruly conduct are being heard.
- (h) Any request for installation and use of electronic recording, transmission, videotaping, or motion picture or still photography of any judicial proceeding shall be made to the court at least two days in advance of the hearing. The request shall be evaluated by the court pursuant to the standards set forth in Code Section 15-1-10.1.
- (i) The judge may order the media not to release identifying information concerning any child or family members or foster parent or other caretaker of a child involved in hearings open to the public.
- (j) The general public shall be excluded from proceedings in juvenile court unless such hearing has been specified as one in which the general public shall be admitted to pursuant to this Code section."

## **SECTION 2.**

Said chapter is further amended by revising subsection (b) of Code Section 15-11-79, relating to inspection of court files and records, as follows:

"(b) Subject to the requirements of subsection (a) of Code Section 15-11-56, subsection (b) of Code Section 15-11-65, and Code Section 15-11-79.2, the general public shall be allowed to inspect court files and records for cases arising under Code Section 15-11-73 or any complaint, petition, or order from any case that was open to the public pursuant to paragraphs (1) through (5) of subsection (b) of Code Section 15-11-78. The general public shall be allowed to inspect court files and records for proceedings involving a legitimization petition under the jurisdiction of the juvenile court pursuant to paragraph (1) or (2) of subsection (e) of Code Section 15-11-28."

## **SECTION 3.**

Said chapter is further amended by revising subsection (e) of Code Section 15-11-79.2, relating to sealing of records, as follows:

"(e) The court may seal any record containing information identifying a victim of an act which, if done by an adult, would constitute a sexual offense under Chapter 6 of Title 16."

## **SECTION 4.**

Said chapter is further amended by revising subsection (b) of Code Section 15-11-82, relating to inspection of court files and records, as follows:

"(b) Unless a charge of delinquency is transferred for criminal prosecution under Code Section 15-11-30.2, or the interest of national security requires, or the case is one in which the general public may not be excluded from the hearings under Code Section 15-11-78, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection nor shall their contents be disclosed to the public."

#### **SECTION 5.**

Said chapter is further amended by adding a new Code section to read as follows:

"15-11-84.

(a) As used in this Code section, the term 'governmental entity' shall mean the court, superior court, the Department of Juvenile Justice, the Division of Mental Health, Developmental Disabilities, and Addictive Diseases within the Department of Human Resources, the Division of Family and Children Services within the Department of Human Resources, county departments of family and children services, or public school, as such term is defined in Code Section 16-11-35.

(b) Governmental entities, state, county, consolidate governments, or municipal government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-11-9.1, subsection (d) of Code Section 15-11-10, Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82, 15-11-174, 20-2-751.2, 20-14-40, 24-9-40.1, 24-9-41, 24-9-42, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interest of the child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of the child in juvenile court or superior court or utilized to the detriment of the child.

(c) Information released pursuant to this Code section shall not change or rescind the confidential nature of such information and such information shall not be subject to public disclosure or inspection unless otherwise provided by law."

#### **SECTION 6.**

This Act shall become effective on January 1, 2010, and shall not apply to any juvenile court proceeding filed before that date. Any such proceeding filed before January 1, 2010, shall be governed by the statute in effect at the time the juvenile court proceeding was filed.

**SECTION 7.**

All laws and parts of laws in conflict with this Act are repealed.